

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**BOARD OF MISSISSIPPI LEVEE  
COMMISSIONERS**

**PLAINTIFF**

**VS.**

**CASE NO. 4:09-CV-81-SA-DAS**

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY; LISA P. JACKSON,  
in her official capacity as Administrator; and  
PETER S. SILVA, in his official capacity as Assistant  
Administrator for Water,**

**DEFENDANTS**

**ORDER**

BEFORE THE COURT is the unopposed Motion to Intervene (#14) on behalf of the National Wildlife Federation, the Mississippi Wildlife Federation and the Environmental Defense Fund (collectively, “Movants”). Movants request to intervene as of right under Federal Rule of Civil Procedure 24(a), or in the alternative, be allowed to participate via permissive intervention under Rule 24(b).

Federal Rule of Civil Procedure 24(a) provides that, “upon timely application,” a court shall permit intervention as of right where:

the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest, unless the applicant’s interest is adequately represented by existing parties.

Fed. R. Civ. P. 24(a)(2). The Fifth Circuit Court of Appeals has ruled that intervention as of right must be granted where: (1) the application to intervene is timely; (2) the applicant has an

interest in the subject matter of the action; (3) disposition of the action may, as a practical matter impair or impede the applicant's ability to protect that interest; and (4) the applicant's interest may not be adequately represented by the existing parties. See, e.g., *Sierra Club v. Glickman*, 82 F.3d 106, 108 (5th Cir. 1996).

The Court finds the Movants have satisfied each element enumerated by the Fifth Circuit. Specifically, the court notes that the Movants clearly evidenced their interests are at risk. Moreover, the existing defendants do not have identical concerns, making it necessary that Movants be permitted to intervene as of right.

Accordingly, the Motion to Intervene (# 14) is hereby GRANTED. The court hereby orders that the National Wildlife Federation, the Mississippi Wildlife Federation and the Environmental Defense Fund be allowed to intervene as Defendants in the present action.

SO ORDERED, this the 23<sup>rd</sup> day of November 2009.

/s/David A. Sanders  
**UNITED STATES MAGISTRATE JUDGE**